

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7348

BILL NUMBER: HB 1370

NOTE PREPARED: Jan 13, 2013

BILL AMENDED:

SUBJECT: Telephone Privacy Issues.

FIRST AUTHOR: Rep. Neese

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that:

- (1) a telephone solicitor who sells a telephone number listed in the do-not-call list; or
 - (2) a person who knowingly purchases the telephone number;
- commits a deceptive act.

The bill also provides for partial payment of certain civil penalties to individuals who assist the Attorney General in investigating certain deceptive acts.

It adds:

- (1) telephone solicitation;
- (2) telecommunications service; and
- (3) IP-enabled service;

to the definition of "consumer transaction" for purposes of the deceptive consumer sales act.

The bill imposes a civil penalty of up to \$10,000 for a knowing or intentional violation of the federal Truth in Caller ID Act.

Effective Date: July 1, 2013.

Summary of NET State Impact: Cost for the Attorney General's Office could increase to investigate and bring civil actions against telephone solicitors who sell or persons who purchase telephone numbers on the do-not-call list or against a supplier who knowingly or intentionally violates technology and procedural standards.

However, the court may order a defendant to pay attorney costs if the Attorney General prevails in an action.

Additionally, civil penalties recovered from violations of these acts are to be deposited in the Consumer Protection Division's Telephone Solicitation Fund, which may offset some costs of bringing an action.

Explanation of State Expenditures: *Attorney General's Office:* An increase in costs for the Attorney General's Office will depend on the number of actions the Office brings under the new violations established under the bill.

Explanation of State Revenues: *Penalties:* The bill establishes civil penalties up to \$10,000 per act for these new violations. Penalties received for violations under the bill are deposited in the Telephone Solicitation Fund.

Awards to Helpful Individuals: The Attorney General may request that the court award up to 10% of a civil penalty to an individual who reported violations to the Attorney General or cooperated in the investigation of violations. This would reduce the amount deposited with the state.

Background- Telephone Solicitation Fund: The Telephone Solicitation Fund receives money from several sources, including civil penalties for telephone solicitations to individuals on the telephone privacy list. Penalty revenue to the fund in FY 2011 was \$194,712 and in FY 2012 was \$169,500.

Money in the fund is used to pay for the Consumer Protection Division's Telephone Solicitation Unit. Expenditures for FY 2011 were \$613,850 and for FY 2012 were \$185,000.

Any balance in the fund at the end of the year that exceeds \$200,000 is to be transferred to the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Attorney General's Office.

Local Agencies Affected:

Information Sources: Budget Agency Auditor's Data for Fund 48390.

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